

EXHIBIT 28

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF OHIO
3 WESTERN DIVISION

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5 VIVIAN BERT, et al., :
6 Plaintiffs, :
7 vs. : CASE NO.
8 AK STEEL CORPORATION, : C-1-02-467
9 Defendant. :
10 -----

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12 Deposition of: PHYLLIS SHORT
13 Taken: By the Plaintiffs
14 Pursuant to Notice

15 Date: February 16, 2005
16 Time: Commencing at 11:35 a.m.
17 Place: Taft, Stettinius &
18 Hollister, LLP
19 425 Walnut Street
20 Suite 1800
21 Cincinnati, Ohio 45202
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1 Before: Karen Volk, RPR
2 Notary Public - State of Ohio

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4 APPEARANCES:

5 On behalf of the plaintiffs:

6 Robert F. Childs, Jr., Esq. (via telephone)
7 of
8 Wiggins, Childs, Quinn & Pantazis
9 301 19th Street
10 North Kress Building
11 Birmingham, Alabama 35203
12 and
13 David D. Kammer, Esq.
14 of
15 Tobias, Kraus & Torchia
16 911 Mercantile Library Building
17 414 Walnut Street
18 Cincinnati, Ohio 45202

16 January of 2000 to the present?

17 A. I know there were cut-off scores but I
18 can't quote what they were.

19 Q. Would Teresa -- I'm sorry, Jessica or
20 Tracy have better knowledge than you in that regard
21 or would you have better knowledge?

22 A. I would have better knowledge than them.

23 Q. Is there anybody at the company who would
24 have better knowledge as to what the qualification
25 versus not qualification process is or somebody that

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1 could identify that for me?

2 A. You mean as far as the cut-off scores are
3 concerned --

4 Q. Yes, ma'am.

5 A. -- at the company? No, sir.

6 Q. Who did you work with at Resource
7 Associates?

8 A. The only person I ever talked with was
9 Lucy Gibson.

10 Q. Was she the doctor that designed the test?

11 A. Yes, sir.

12 Q. And did she personally do the grading on
13 the test, do you know?

14 A. No, I don't know.

15 Q. Did the fax that you received back, was
16 that from Ms. Gibson?

17 A. It was from Resource Associates.

18 Q. You don't know who from there?

19 A. No, sir.

20 Q. Once you got the results, what did you do
21 with them?

22 A. Once I got the results, then I would
23 telephone Tracy or Jessica and tell them which
24 candidates that they could proceed to the next step.

25 Q. So, in essence, which candidates were

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1 qualified after taking the test?

2 A. Yes, sir.

3 Q. What's the next step?

4 A. Then the next step would have been they
5 would have run a background screen on the candidates
6 who were -- I'm sorry, the next step would have been
7 an interview. They would actually have scheduled the
8 person in for an interview.

9 Q. Who would have done the interview?

10 A. It would have been -- let's, for
11 simplicity, say it would have been Ms. Hicks. Okay.
12 The interview would have been with Ms. Hicks. And we
13 tried to have a management member from operations
14 also in those interviews.

15 Q. When we're doing it for simplicity sake,
16 we're meaning Ms. White or Ms. Hicks, whoever would
17 have been in there at that time?

18 A. Yes, sir.

19 Q. Tell me about the interview.

20 A. The interview -- they would have been

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1 Q. Do you know how many employees are -- or
2 percentage of employees that are screened out because
3 they do not take the test?

4 A. No, sir, I don't.

5 Q. Have you ever seen any analysis conducted
6 by AK Steel in any manner describing the number of
7 employees that are taken out because they don't take
8 the test?

9 A. No, sir, I haven't.

10 Q. Do you know what percentage of your
11 employee work force are -- your applicant work force,
12 I'm sorry, are eliminated because they flunked the
13 test?

14 A. No, I don't know what percent that is.

15 Q. Have you ever seen any analysis that would
16 tell you whether blacks -- African Americans were
17 flunking the test at a higher percentage than the
18 whites?

19 A. I'm sorry, say that again.

20 Q. Have you seen any analysis which would
21 indicate African Americans are flunking this test at
22 a higher percentage than whites?

23 A. I'm thinking about that, if I've ever seen
24 an analysis of that type. I've seen -- we've done
25 analysis on our testing but I can't remember

0093

1 specifically if that was part of the analysis.

2 Q. How long does it take for the test to be
3 graded before you get the information back from
4 Dr. Gibson?

5 A. Normally like a couple of days, two or
6 three days. It depended upon, you know, if it was
7 taken on a Saturday and I would get those results
8 usually on a Tuesday or Wednesday.

9 Q. The test results would come back to you
10 and you would forward them to Ms. Hicks and
11 Ms. White?

12 A. No. The test results came back to me and
13 I would call Ms. Hicks or Ms. White and tell them who
14 they could proceed with. I kept the test results or
15 the qualified, not qualified.

16 Q. Ms. Hicks and Ms. White never saw those
17 results?

18 A. No, they did not.

19 Q. Have you been the sole maintainer of those
20 test results?

21 A. I was when I was at Middletown Works.

22 Q. Who now maintains those?

23 A. The manager of human resources at
24 Middletown Works.

25 Q. Who is that?

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1 A. John O'Connor.

2 Q. How long has Ms. O'Connor been the manager
3 of HR there?

4 A. Mister. How long has he been at

5 Middletown Works?

6 Q. As the manager.

7 A. A year.

8 Q. Once you called Ms. Hicks or Ms. White to
9 tell them who had not qualified under the test, what
10 did they do with that information, if anything?

11 A. They would not have put them in the first
12 step of the process. They would not have scheduled
13 them for an interview, in other words.

14 Q. Would they have recorded that information
15 anywhere?

16 A. Yes, I'm sure they did, so that they would
17 know not to continue with that candidate.

18 Q. Did you ever see a written document where
19 they recorded that information?

20 A. Yes.

21 Q. What document did you see that on?

22 A. There was a document that they kept so --
23 you know, we had so many candidates going through, it
24 didn't have a specific title or anything. It was a
25 document that they kept, you know, of the candidates

0095 who were going through the process.

1 Q. Is this something different than the
2 applicant flow log?

3 A. I think it's the same thing.

4 Q. It's the same?

5 A. Yeah, I think it's the same thing. I just
6 never called it the applicant flow.

7 Q. Okay. Did you ever check the applicant
8 flow data to make sure that the individuals that you
9 told Ms. White and Ms. Hicks to take off were, in
10 fact, taken off?

11 A. No, sir, I did not.

12 Q. All right. The next step in the process,
13 as I recall, was an interview?

14 A. Yes.

15 Q. This was conducted by either Ms. Hicks or
16 Ms. White and some manager from operations, correct?

17 A. Yes, sir. If we had a manager available,
18 yes.

19 Q. Would the norm be that either Ms. White or
20 Ms. Hicks by themselves would conduct the interview
21 or was it the norm to have the manager do it in
22 conjunction with them?

23 A. We liked to have one of the managers
24 involved in the interview process. But if we had

0096 1 scheduled someone to come in for an interview and
2 they were not available, yes, Ms. Hicks or Ms. White
3 would have done the interview by themselves.

4 MR. CHILDS: Dave, how about giving Ms.
5 Short a copy of Exhibit 3?

6 (Exhibit 3 was marked for identification.)

7 MR. KAMMER: Okay. Bob, she has it.

8 Q. We were talking earlier about a candidate
9 evaluation form for your jobs at Middletown.